

**ATTACHMENT 13 TO DECLARATION OF
C. MICHAEL PFAU AND JULIE S. CHAMBERS**

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
PUBLIC UTILITY COMMISSION OF TEXAS
AUSTIN, TEXAS

INVESTIGATION OF SOUTHWESTERN)
BELL COMPANY'S ENTRY INTO THE) PROJECT NO.
TEXAS INTERLATA) 16251
TELECOMMUNICATIONS MARKET)

HEARING ON THE MERITS
TUESDAY, NOVEMBER 2, 1999

BE IT REMEMBERED THAT AT approximately
8:40 a.m., on Tuesday, the 2nd day of November
1999, the above-entitled matter came on for
hearing at the Offices of the Public Utility
Commission of Texas, 1701 North Congress Avenue,
William B. Travis State Office Building,
Commissioners' Hearing Room, Austin, Texas
78701, before KATHERINE FARROBA and DONNA NELSON,
presiding; and the following proceedings were
reported by William C. Beardmore, Kim Pence, Evie
Coder and Steve Stogel, Certified Shorthand
Reporters of:

1 A (Morgan) Yes.

2 Q Nice to meet you.

3 A (Morgan) Nice to meet you.

4 Q Does AT&T provide DSL service here in
5 Texas at this time?

6 A (Morgan) To be honest with you, I
7 don't know.

8 Q All right. In your testimony, you
9 reference the FCC's order approving the
10 SBC/Ameritech merger. Are you familiar with
11 that order?

12 A (Morgan) Generally familiar.

13 Q Are you familiar that it includes
14 surrogate line sharing discounts?

15 A (Morgan) Yes, I am.

16 Q And were you familiar with the
17 surrogate line sharing discounts when you filed
18 your testimony?

19 A (Morgan) Yes, I was.

20 Q Did your company file comments with the
21 FCC regarding the SBC/Ameritech merger?

22 A (Morgan) Yes, they did.

23 Q And did you review those comments prior
24 to filing?

25 A (Morgan) I have read those comments in

1 the past. I did not review them prior to the
2 writing of this document, no.

3 Q And you did not review them prior to
4 the filing?

5 A (Morgan) No. I mean, I'm familiar
6 with them generally. I've read them, and -- but
7 no -- if you're asking me did I sit down and
8 review that documentation prior to producing
9 this, the answer is no.

10 Q Thank you.

11 MR. LEAHY: Your Honors, I have no
12 further questions.

13 JUDGE NELSON: Okay. Now -- yeah,
14 it's time for staff to ask questions.

15 CLARIFYING EXAMINATION

16 BY THE COMMISSION STAFF:

17 Q (Ervin) Okay. I have a question for
18 Mr. Falls. I'm Janis Ervin with staff.

19 Mr. Falls, is there a pending docket or
20 complaint case of some sort here at the
21 Commission that relates to your affidavit of the
22 issue of compensation being received from
23 Southwestern Bell?

24 A (Falls) Yes, that's correct. I
25 believe it was filed last week with the

1 Commission.

2 Q (Ervin) Do you know what that docket
3 number is?

4 A (Falls) I have a copy, but it doesn't
5 have the docket number on it.

6 Q (Ervin) Southwestern Bell, do you know
7 what docket that is?

8 MR. LEAHY: Tim Leahy for
9 Southwestern Bell. I have a handwritten number
10 on the fax copy we received. The number is
11 21570. I don't know that -- I don't know the
12 source of that information.

13 Q (Ervin) So, as of last week, a
14 complaint was filed. Is that a complaint, an
15 arbitration, a mediation? Do we know at this
16 point? Probably not. But related to the issue
17 of receiving the compensation from Southwestern
18 Bell?

19 A (Falls) That's correct.

20 Q (Ervin) Okay. I guess the only other
21 question that I have goes back to something that
22 we discussed this morning, and, Mr. Morgan, I
23 don't know if you were -- were you here this
24 morning when I brought up the issue of your
25 affidavit at the discussion of the disconnection

1 of the DSL services?

2 A (Morgan) No, I was not.

3 Q (Ervin) And I guess -- it could be
4 just because it's been a long day, but I don't
5 know that I ever really got a clear response
6 from Southwestern Bell about the process
7 problem -- I didn't want to get into the whole
8 issue of DSL and ADSL and cranking it out and
9 all that stuff. But apparently there was some
10 process problem that was resulting in
11 disconnection of the end user's affiliate
12 service for ADSL, or whatever the equivalent is.
13 And I asked at that time if the parties from
14 Southwestern Bell were familiar with that, and I
15 don't think I ever really got a clear response
16 as to what, if anything, is being done about
17 that problem. So is there anybody out there
18 from Southwestern Bell who can address that at
19 this time?

20 MS. HAMM: My name is Kimberly
21 Hamm, Southwestern Bell's local service center.

22 JUDGE NELSON: Okay. Have you
23 been sworn?

24 MS. HAMM: No, I haven't.

25 (Kimberly Hamm was sworn)

1 Q (Ervin) Okay. I'm sorry. What was
2 your last name again?

3 A (Hamm) Hamm, H-A-M-M.

4 Q (Ervin) Thanks. Sit down.

5 (Laughter)

6 Q (Ervin) Explain to me what's going on.

7 A (Hamm) I have knowledge of that
8 particular situation -- or several situations
9 where AT&T was sending conversion orders on
10 retail accounts, and they did a conversion from
11 retail --

12 Q (Ervin) Excuse me. Can you move a
13 little closer to the mike for us?

14 A (Hamm) Sure.

15 Q (Ervin) Thanks a bunch.

16 A (Hamm) I usually get accused of being
17 too loud. AT&T was sending conversion orders on
18 retail accounts which were ADSL accounts with
19 Southwestern Bell. AT&T would send over a
20 loop/port conversion order, regardless of
21 whether the customer was ADSL or not. Of
22 course, when they converted these to a loop/port
23 combo, that customer did have dial tone, but
24 they did not have the ADSL capacity on their
25 line. They did not have the data portion of

1 their line. These customers -- we got calls
2 from AT&T representatives saying that their
3 customers didn't have ADSL service anymore, and
4 we said -- we referred them to their customer
5 service records at the time they did the
6 conversion. There was no discussion or any
7 questions on how to convert that ADSL customer
8 to ADSL. We do have a seamless resale process
9 where they could have converted a retail ADSL
10 customer with Southwestern Bell to a resale ADSL
11 customer to AT&T without any downtime or any
12 change at all.

13 Q (Ervin) Okay. Now, bear with me,
14 because remember I'm not familiar with this, and
15 I'm trying to absorb that. And that went pretty
16 fast for me. But I think I'm getting some idea
17 of what you're saying. Let me go back to
18 Mr. Morgan for a second. Now, is what she's
19 saying making sense to you, or is there some
20 other aspect of this that I need to be made
21 aware of or what's --

22 A (Morgan) Actually, I think the
23 condition she's describing is completely
24 separate and distinct from what was in my
25 testimony. In fact, I have not heard this

1 particular version or explanation of the issue.

2 The particular employee or customer we're

3 talking about here actually had a Southwestern

4 Bell local telephone service and added ADSL

5 service to that account. So they had local

6 voice service from Southwestern Bell and had

7 ADSL service from Southwestern Bell working

8 fine.

9 Q (Ervin) The ADSL service was a

10 Southwestern Bell affiliate service?

11 A (Morgan) Yes.

12 Q (Ervin) So it was an SBC service?

13 A (Morgan) Yes, it was. The complete

14 relationship for both the high-speed data and

15 the voice was from Southwestern Bell.

16 Q (Ervin) Well, bear with me just a

17 second.

18 Q (Farroba) Wait. Let me just -- I

19 thought the ADSL service is being provided

20 through Southwestern Bell at this time, not

21 through an affiliate.

22 A (Morgan) You're correct. At the time

23 that the service was established -- and I

24 believe the current docket or request is to

25 transfer those customers to the affiliate. At

1 the time the service was established, it was
2 from Southwestern Bell, both the local voice as
3 well as the high-speed data.

4 Q (Ervin) And that must have been why
5 Ms. Hamm's head was shaking.

6 A (Hamm) Yes. That's correct.

7 Q (Ervin) So far we're on the same
8 wavelength. You understand what he's talking
9 about?

10 A (Hamm) I think you talk about the same
11 thing, too, in your affidavit.

12 A (Morgan) Well, let me try this a
13 second time. We then contacted that employee.
14 That employee converted their voice service to
15 AT&T via UNE-P. So we send a standard UNE-P
16 transaction to Southwestern Bell. Southwestern
17 Bell converted that customer's voice service to
18 AT&T. If you went in and looked at the record,
19 it would show that the loop and port combination
20 belonged to AT&T for providing local voice
21 service. So, at that particular point in time,
22 the customer had local voice on the loop
23 provided by AT&T and high-speed data on that
24 loop provided by Southwestern Bell.

25 Q (Ervin) Okay. Now, let's just stop

1 for a second. Remember, we're going to go real
2 slow for Janis.

3 (Laughter)

4 Q (Ervin) Okay. Move slow. So,
5 Ms. Hamm, you were shaking your head. You pick
6 it up from there for a second, and we'll go back
7 and forth until we can figure out what's
8 happening here.

9 A (Hamm) And just to clarify, I was
10 talking about the same instances in your
11 affidavit. That would be the AT&T employee that
12 had retail service with Southwestern Bell,
13 correct? In your affidavit, you stated an
14 instance that there was AT&T employee that had
15 retail service with Southwestern Bell.

16 A (Morgan) No. At the point in time
17 we're at right now we're discussing, they had
18 UNE-P voice service provided by AT&T. On that
19 same loop, they've got high-speed data service
20 from Southwestern Bell.

21 A (Hamm) At the time that you sent a
22 conversion order on that AT&T employee, you had
23 retail service through Southwestern Bell. They
24 had a POTS line that had dial tone with data
25 service on it, ADSL. Slow down, because I talk

1 real fast, because I'm from Texas.

2 Q (Ervin) Please, everybody slow. I
3 noticed that another party came up to the table.
4 Do we need to swear in another party?

5 A (Chapman) I was sworn in.

6 Q (Ervin) Okay. I'm sorry. What was
7 your name?

8 A (Chapman) Carol Chapman.

9 Q (Ervin) Okay, Ms. Chapman. You're
10 familiar with this situation?

11 A (Chapman) Yes.

12 Q (Ervin) And that's why you hopped up.
13 Okay.

14 A (Chapman) Yes.

15 Q (Ervin) Bear with me. Let's just go
16 slow. So we've got -- I don't care whose
17 employee they were. We've got a person.
18 They've got ADSL, and they've got POTS service
19 running over the same loop. Is that right?
20 A (Chapman) It's an ADSL product with
21 Southwestern Bell retail. AT&T sent a
22 conversion order that had no indication on the
23 LSR of anything but a loop/port combo conversion
24 order. A loop/port combo is a loop with a dial
25 tone, nothing in regards to DSL service.

1 Q (Ervin) Okay. Now, slow down for a
2 second.

3 A (Chapman) Okay.

4 Q (Ervin) Let me ask Mr. Morgan this
5 question.

6 Q (Farroba) Well, wait a minute. Before
7 that, can I ask something?

8 Q (Ervin) Yes. Go ahead.

9 Q (Farroba) Will it convert as is?

10 A (Hamm) No, it would not convert as is.

11 Q (Farroba) But did the LSR convert as
12 is?

13 A (Hamm) No, it did not.

14 Q (Farroba) Okay. Go ahead.

15 Q (Ervin) Okay. Now, Mr. Morgan, I sort
16 of got the impression from the affidavit -- and
17 I think I saw this in some other CLEC
18 affidavits, and it could just be I'm getting
19 blurry from reading so many affidavits. But it
20 seems to me that there has been some other
21 complaints about this as well, and I was
22 wondering is this -- this isn't just an isolated
23 incident. This isn't just one thing that
24 happened with this one party. There are other
25 incidents or not?

1 A (Morgan) There are now two employees
2 who we've taken through this exact same process.

3 Q (Ervin) Okay. So it's just a
4 couple -- at this point it's sort of an
5 experimental roll-out, and things aren't rolling
6 too well?

7 A (Morgan) Actually, the question is is
8 that -- I don't believe there actually is an
9 indicator -- I could be wrong on this -- on the
10 customer service record that they have ADSL
11 service. We are contacting this person to
12 convert their voice traffic to AT&T via UNE-P.
13 That's what we're here to do. Where our issue
14 came up is they now had on the same loop
15 high-speed data from Southwestern Bell, voice
16 from AT&T, and they were then contacted by
17 Southwestern Bell saying, "You can't have that
18 situation. The only way you can keep your
19 high-speed data service is if you switch your
20 voice traffic back to Southwestern Bell."

21 Q (Ervin) Okay. Now, let me ask this
22 question to either of you from Southwestern
23 Bell. Okay. You're aware of the problem. Is
24 there a solution to the problem?

25 A (Chapman) ADSL -- this is Carol

1 Chapman. ADSL is not available as an unbundled
2 element, so it's not available in conjunction
3 with a switch port combo. It is indicated by a
4 different class of service on the CSR, the
5 customer service record. So it is available to
6 the CLEC -- the information is available up
7 front that the customer currently does have ADSL
8 service if they look up the customer service
9 record.

10 Q (Ervin) Now, if I am a customer and I
11 have POTS service and I have ADSL -- and let me
12 just clarify this -- I'm purchasing the ADSL
13 from Southwestern Bell or from SBC?

14 A (Sirles) From Southwestern Bell
15 Telephone. Glen Sirles, for the record.

16 Q (Ervin) Okay. So I have POTS, and I
17 have ADSL. God only knows what I'm doing at
18 home, but okay.

19 (Laughter)

20 Q (Ervin) I've got both of these things.
21 And now AT&T calls me or Allegiance or whoever,
22 and I decide I want to switch my local service
23 to that company, okay? But I don't bother to
24 mention to them that I have ADSL, okay? Let's
25 assume for a minute that they actually look at

1 my record and realize that I have the ADSL.

2 What you're saying is that they can convert me

3 and purchase the ADSL for resale to me? In

4 other words, they can provide me with both

5 services?

6 A (Chapman) Correct, as a resale service

7 Q (Ervin) I'm sorry. Ms. Farroba.

8 Q (Farroba) I have a question after

9 that. I mean, I wanted to know the scenario

10 without converting it to resale.

11 A (Chapman) Or if they were a switch

12 base provider and also a DSL provider, they

13 could provide voice and data over the same loop

14 in the same manner we're doing today.

15 A (Morgan) Could I --

16 Q (Farroba) Well, just a second. Why

17 can't they just switch over their voice service?

18 Why can't they just have AT&T do the voice

19 service and Southwestern Bell continue to do the

20 DSL service?

21 A (Chapman) Because currently we are not

22 doing line sharing, and -- at a later date, when

23 line sharing becomes, I guess, mandated, then we

24 will probably be looking into that option.

25 Q (Farroba) So, if someone wanted to

1 have someone other than Southwestern Bell as
2 their local voice provider and they wanted to
3 have ADSL service, they would have to have two
4 lines?

5 A (Sirles) This is Glen Sirles with
6 Southwestern Bell. Yes, essentially. As Carol
7 said -- Carol mentioned until line sharing is
8 mandated. There's a lot of active FCC
9 discussion going on at this point.

10 Q (Farroba) Right. But I'm just trying
11 to find out what's currently going on right now
12 would require them to have two lines into their
13 house, one for voice and one for ADSL?

14 A (Sirles) Well, that's correct. And
15 that's why --

16 Q (Farroba) Okay. Then if they wanted
17 voice from Southwestern Bell and ADSL from
18 Southwestern Bell, they would only be required
19 to buy one line? Yes or no.

20 A (Chapman) That's correct.

21 A (Sirles) That is correct. And that is
22 the reason --

23 A (Chapman) That is the purpose of the
24 line sharing discount that is available to CLECs
25 who do not line share with us. They will get a

1 50 percent discount on any ADSL line if we're
2 providing the voice.

3 Q (Farroba) And that's effective now?

4 A (Chapman) Uh-huh.

5 A (Sirles) That's effective now. And
6 that was the purpose of that merger condition.

7 A (Goodpastor) If I could address that,
8 because this is a fundamental issue to Covad.
9 The fact is is that this is basically the
10 opposite end of the line sharing debate. Right
11 now what Covad is required to do, if it wants to
12 provide ADSL to a certain customer, is buy an
13 extra loop at full price or now under a
14 50 percent price because Southwestern Bell, even
15 though it provides line sharing for itself,
16 refuses to provide real line sharing for its
17 competitors.

18 So, when we go in, we provide DSL, but
19 we are not allowed to do it over their existing
20 voice line, whether it's Southwestern Bell
21 providing the existing voice line or AT&T. And
22 so when AT&T comes back and switches the voice
23 customer and they already have an ADSL line from
24 Southwestern Bell, Southwestern Bell isn't going
25 to let them -- let the customer keep the voice

1 with AT&T and still remain an ADSL customer of
2 Southwestern Bell. It's essentially a bundling
3 of these two products such that the customer
4 can't choose which provider it wants to get its
5 DSL from.

6 A (Morgan) And this is Russell Morgan.
7 That's exactly my point. In essence, the way in
8 which the service is being offered by
9 Southwestern Bell, if I don't have the
10 capability at this point in time to provide
11 high-speed data, whether I want to resell it or
12 not, I don't even know what the resale
13 conditions are. I've seen no EDI transaction
14 that would tell me how to go about the process
15 of doing that. The fact of the matter is that
16 I'm trying to compete for voice service. And
17 what I've now found is I've got this set of
18 customers -- small today but growing tomorrow --
19 where I'm going to be told I can't go after
20 those customers. Or if I do secure them,
21 they're going to be told as my customer, "You
22 can't have AT&T's voice service if you want to
23 keep your high-speed data service from
24 Southwestern Bell."

25 It reminds me a lot of the whole way in

1 which the voice mail product was an issue as
2 part of the mega arbitration that we went
3 through -- or actually the original 271, I
4 think, is actually when it got looked at and
5 said, "Gee, it's a way of bundling voice -- or
6 tearing down voice mail service when someone
7 takes local voice from somebody else. You
8 shouldn't be doing that." You're using what
9 will eventually be an unaffiliated service as a
10 way of discriminating against voice providers of
11 local service.

12 Q (Farroba) Okay. Let me ask you both a
13 question, then. Why don't you think that the
14 discounts provided for under the merger
15 conditions are sufficient to remedy this
16 situation?

17 A (Goodpastor) I can address that.
18 Because they require only a 50 percent reduction
19 in the loop. Now, if you look at cost studies
20 done on the incremental cost of providing a DSL
21 service over an existing voice loop, the
22 incremental cost approaches zero as a matter of
23 fact.

24 Q (LeMon) Could you identify yourself,
25 please?

1 A (Goodpastor) Oh, I'm sorry. I'm Chris
2 Goodpastor with Covad Communications. The point
3 is is that the ILEC has already recovered the
4 cost of provisioning the loop and maintaining
5 the loop through its voice service. The
6 incremental cost of attaching another DSL
7 service in that extra bandwidth that's in the
8 loop approaches zero. And, therefore, a
9 50 percent reduction in the cost of the loop
10 still gives the ILEC an enormous windfall and
11 creates a second barrier to entry for a CLEC.

12 Covad has the opposite problem that
13 AT&T does. Covad wants to provide only data and
14 doesn't want to have the extra barrier to entry
15 to also have to provide voice to bundle with
16 that. AT&T is the opposite of that. It wants
17 to provide only voice, but it doesn't want the
18 extra barrier to entry of getting into the DSL
19 business.

20 Q (Ervin) Well, I think I got even more
21 information than I ever wanted or needed, but I
22 do want to just ask one question.

23 Q (Farroba) Well, wait.

24 Q (Ervin) Yes, ma'am.

25 Q (Farroba) I'm sorry.

1 Q (Ervin) Go ahead.

2 Q (Farroba) I want to hear Mr. Morgan's
3 response and then a response from Southwestern
4 Bell and then, Janis, your question.

5 A (Morgan) It's a two-part response.
6 It's not clear to me that a price discount on
7 the loop price changes the fact that in essence
8 what I'd be doing to a customer who had ADSL
9 service is be taking a portion of their voice
10 traffic. In this particular instance, they've
11 got voice and data service provided by
12 Southwestern Bell over a single loop. Even if I
13 get the second loop for voice at a 50 percent
14 discount, the customers will be paying more to
15 have a second voice line if I charge them
16 anything at all. I guess I could give the
17 service away for free, but that's kind of not
18 where we're at in terms of what we're trying to
19 do in getting in the local business.

20 The second thing I guess I'd say is
21 that with the recent COA request and some of the
22 information that's been filed here, my reading
23 of it, is in essence they're going to take the
24 high-speed data business and move that over to
25 the sub. And in that instance they're going to

1 do line sharing with Southwestern Bell
2 Telephone. And what I don't understand is if
3 they have the capability of having the sub
4 handle the high-speed data and have Southwestern
5 Bell handle the voice, why -- when you change
6 your voice, nothing else should change. What's
7 the problem with changing your voice carrier to
8 AT&T and keeping everything else the same? It
9 in fact is going to be in a subsidiary that's
10 separate and distinct from Southwestern Bell
11 Telephone in providing the voice.

12 Q (Farroba) Right. That's a separate
13 issue, which is, if they can do line sharing
14 with an affiliate, why can't they do it with an
15 unaffiliated CLEC?

16 A (Morgan) By the way, we demonstrated
17 that they can until they told this customer they
18 had to switch back.

19 MR. LEAHY: Your Honors, if I may,
20 just for the record -- I won't respond on behalf
21 of Southwestern Bell. But I think it's
22 important to note for the record that the FCC's
23 docket -- that is, its order with regard to the
24 merger conditions -- is, of course, a public
25 document. I think Mr. Morgan has characterized

1 some components of that in a way that I would
2 say are incorrect. And I think for the record,
3 all parties --

4 JUDGE FARROBA: Mr. Leahy, I think
5 you are responding, so can I --

6 MR. LEAHY: Well, my point is
7 that's the record. And the witness'
8 mischaracterizations should not --

9 MS. MAJCHER: Your Honors, I would
10 like to object. I do believe Mr. Leahy is
11 testifying. I don't think it's appropriate for
12 him to --

13 MR. LEAHY: Well, I'm finished,
14 Your Honor. I've made the point.

15 MS. ERVIN: Okay. Well, I think I
16 lost the point.

17 (Laughter)

18 MR. LEAHY: Well, I do want
19 Southwestern Bell --

20 MS. ERVIN: Please. Please. Let
21 me just ask the question.

22 Q (Ervin) This has to do with the line
23 sharing, okay? Aside from the merger agreement
24 or whatever else has been done, am I mistaken in
25 my understanding that there is an FCC

1 investigation -- some sort of pending docket,
2 okay, that is related to the issue of line
3 sharing? Am I correct in that? I see people
4 nodding.

5 A (Sirles) Glen Sirles with Southwestern
6 Bell. Yes, you are correct.

7 Q (Ervin) Does anybody know what the
8 docket number is?

9 A (Sirles) I do not.

10 Q (Ervin) Does anybody know when it's
11 going to get resolved?

12 A (Gentry) I have the docket number for
13 the FCC. It's CC Docket 98147.

14 Q (Nelson) And that's Jo Gentry on --

15 A (Gentry) Excuse me. This is Jo
16 Gentry.

17 Q (Ervin) Thank you, Ms. Gentry. Do you
18 know what phase that docket is in at this point?
19 I understood that comments were coming in this
20 summer.

21 A (Gentry) Yes, I do know. We are
22 expecting the order. They've concluded all of
23 the interaction or correspondence back and
24 forth, and the order is due from the FCC
25 approximately the middle of this month. So no

1 date, of course, has been disclosed. We're
2 looking for somewhere around the week of the
3 15th.

4 Q (Ervin) Okay. And my understanding,
5 then, is correct that the FCC is going to
6 address matters of line sharing in that
7 decision?

8 A (Gentry) Yes. They've already gone as
9 far as to say that it is technically feasible.
10 The portion they will be addressing in the
11 document is affirmation of that. And then the
12 portion that will be what I would call
13 implementation or operational issues -- issues
14 that impact systems, OSS, that type of thing,
15 plus the delegation to the states for areas of
16 pricing and the like.

17 Q (Ervin) Okay. Thank you very much.
18 That was it. I just wanted to get that into the
19 record.

20 A (Sirles) This is Glen Sirles with
21 Southwestern Bell. I think Ms. Gentry did a
22 very good job getting that into the record,
23 because I think it's been a bit mischaracterized
24 here that choosing to not line share is strictly
25 a marketing decision, and it's not. There are

1 technical issues. There are procedural issues.
2 All of those are being worked out in this FCC
3 docket. That's why we put forward what we did
4 in the merger conditions in an attempt to
5 compensate for that until we're beyond the point
6 where we need to be at the FCC. In the
7 meantime, ADSL is available for resale. We have
8 processes that work for that. If you don't want
9 resale, we do offer an unbundled loop. That
10 unbundled loop is now discounted that can handle
11 either the second line into the home or that
12 handles the opposite end situation which is
13 where you don't want to provide voice.

14 Q (Farroba) Okay. I have a question,
15 though, on the second issue, which is why can
16 you line share with your affiliate and that be
17 technically feasible and you can't line share
18 with an unaffiliated CLEC?

19 A (Sirles) Basically because that is the
20 way the product was designed and the technical
21 equipment that provides the service. And the
22 procedures to do that otherwise and unbundle
23 those inventories and attempt to provide
24 processes that will allow the easy transfer are
25 yet to be worked out.

.

1 Q (Farroba) So --

2 A (Gentry) Can I ask -- I couldn't hear
3 part of that, but could I also acknowledge the
4 fact that Minnesota, of course, is in the middle
5 of a line sharing technical and process trial
6 right now that is affirming many of the facts
7 that we've just said.

8 A (Goodpastor) As a matter of fact,
9 Covad had a successful trial in US West
10 territory just yesterday. So this is completely
11 technically feasible. There's no reason to
12 delay it any further.

13 A (Morgan) This is Russell Morgan. For
14 the record, we actually had a customer who was
15 doing line sharing. They had our voice service
16 and had their high-speed data service.

17 A (Sirles) Glen Sirles for Southwestern
18 Bell. While the customer may have physically
19 had the service provision, whether or not we
20 could have actually kept up with the customer
21 record, handled a trouble report, or billed AT&T
22 properly is a big question.

23 Q (Ervin) Well, I wouldn't --

24 Q (Farroba) Except -- just a second.
25 I'm sorry. This raised another issue for me.

1 Except that you can do that for your affiliate,
2 though. Right?

3 A (Chapman) Currently it's billed on one
4 bill. The ADSL for the affiliate and -- well,
5 it's not -- well, for the affiliate and for the
6 regular POTS line is all billed in CRIS on the
7 same bill, not billed as a loop -- a data loop
8 and a separate POTS line. And that's a big
9 issue, of trying to actually track that for
10 maintenance purposes, for -- if the CLEC
11 customer called in trying to do maintenance, who
12 is responsible? Things like that.

13 A (Gentry) Well, and I would add to
14 that, since I've been very intimately involved
15 with Minnesota, those are the exact issues that
16 we are working out and have worked out with
17 Minnesota so that we can proceed with that.
18 Also at the FCC, it was said by Bell South that
19 they had already developed a process for billing
20 jointly or billing two different parties, that
21 they've already acknowledged their LFACS data
22 tracking capabilities. So several RBOCs have
23 already done strides in this.

24 A (Goodpastor) Yeah. I'll add -- this
25 is Chris Goodpastor for Covad. We sent a letter

1 to Southwestern Bell last week asking to begin
2 the implementation of real line sharing and were
3 told that they would not do it until
4 affirmatively ordered to do so.

5 What we would like to do is just get
6 this process rolling. Let's get to real line
7 sharing. We realize that the surrogate line
8 sharing is not a correct pricing structure at
9 all. Let's just get this ball rolling so we can
10 get the procedures worked out and get line
11 sharing implemented as soon as possible.

12 Q (Farroba) Okay. And then let me
13 just -- the last thing on this topic, and then
14 staff, I think, wants to finish up their
15 questions. For Southwestern Bell, then, is that
16 your position that actual line sharing won't be
17 available until ordered by, I guess, a court or
18 by a regulatory body.

19 A (Sirles) Glen Sirles with Southwestern
20 Bell. Our position is that we will not offer
21 line sharing until the processes are worked out
22 through the FCC and the FCC docket is settled.

23 JUDGE FARROBA: Okay. Ms. Ervin.

24 Q (Ervin) I'm simply trying to close
25 this issue out. The FCC is going to make a

1 decision, apparently sometime in the near
2 future. I can't speak for anybody else here.
3 I'm not going to anticipate what their decision
4 is. They're examining a lot of other materials.
5 It's obvious that Bell's position is that
6 they're not going to offer line sharing until
7 they're ordered to offer it. Okay. So let's
8 move on.

9 A (Sirles) Glen Sirles. But another
10 point -- and I'll close it out. In the interim,
11 that's what the discount was for, and we felt we
12 compensated for that.

13 JUDGE NELSON: Okay. I believe
14 the CLECs indicated they wanted to do some
15 cross-examination, perhaps, after staff
16 finished. Were you still interested in doing
17 that?

18 MS. LaVALLE: Just a few questions
19 that have been raised by specific comments from
20 the Southwestern Bell witnesses today. It
21 probably will take me two or three minute.

22 JUDGE NELSON: Okay.

23 CROSS-EXAMINATION

24 BY MS. LaVALLE:

25 Q Just to emphasize the scenario that

1 AT&T was discussing and that was discussed on
2 the panel --

3 JUDGE NELSON: Did you identify
4 yourself?

5 MS. LaVALLE: I'm sorry. I
6 didn't. Kathleen LaValle.

7 MS. ERVIN: Yeah. Would people
8 please do that? Identify yourself and get close
9 to the mike. It's the end of the day and --
10 please have mercy.

11 Q Kathleen LaValle for AT&T. Just to
12 follow through on what the implications are in
13 the policy that's just been discussed, am I
14 correct, Mr. Sirles, that in a typical UNE-P
15 conversion environment, what you're talking
16 about is the reuse of existing facilities?

17 A (Sirles) Glen Sirles, Southwestern
18 Bell. Once line sharing would be available,
19 yes, you would be looking at a reuse of existing
20 facilities.

21 Q And in a typical UNE-P conversion
22 ordered today, if I am just doing it on a voice
23 customer, we're talking about reusing existing
24 facilities, for a UNE-P conversion?

25 A (Sirles) That would be correct.

1 Q Okay. And in the settings that we've
2 just been through where I've got to go out and
3 buy a new loop, discounted or not, it's not
4 going to be a situation where I'm converting
5 that customer's voice service in a reuse
6 existing facility setting. Is that accurate?

7 A (Sirles) Glen Sirles with Southwestern
8 Bell. It could be if you did a conversion with
9 change, because the ADSL can be removed, and you
10 can have the voice account.

11 Q So the only way to do a conversion with
12 existing facility is for that customer to give
13 up their ADSL service. Correct?

14 A (Sirles) Today, at this point, that's
15 correct.

16 Q Okay. And is there any other setting
17 in which Southwestern Bell is not allowing, on a
18 UNE-P conversion, for the service to be offered
19 by the CLEC on an existing facility basis?

20 A (Sirles) Glen Sirles with Southwestern
21 Bell. I would say no, but I would reserve that
22 I may not know of everything that exists out
23 there.

24 Q Well, in fact, Mr. Sirles, isn't it
25 true that Southwestern Bell has admitted that it

1 has, in certain instances, taken customers off
2 of IDLC and not done a reuse existing facility
3 scenario in UNE-P conversions?

4 A (Sirles) That I don't know, Kathleen.
5 I'm sorry.

6 Q Is there anyone that can answer that
7 question?

8 A (Conway) This is Candy Conway with
9 Southwestern Bell. I believe there was an
10 instance, Kathleen. On UNE-P conversions -- and
11 we've discussed this -- a digital loop carrier
12 is acceptable on UNE-P. It is not acceptable
13 for UNE loops.

14 Q And just to clarify -- I just want to
15 make sure Southwestern Bell understands that
16 it's not permitted to take a UNE-P customer off
17 of IDLC.

18 A (Conway) Not permitted to -- yeah, we
19 would not take the customer off on a conversion
20 activity of digital loop carrier for UNE-P.

21 Q So, if that has happened, it's been
22 contrary to policy?

23 A (Conway) That is correct.

24 MS. LaVALLE: Thank you.

25 JUDGE NELSON: I think we have

1 a -- oh. Go ahead.

2 MS. MAJCHER: I have one or two
3 very quick questions just to follow up on these
4 issues.

5 JUDGE FARROBA: Okay. And before
6 you get started, is there anyone else that has
7 any questions? Okay.

8 MS. MAJCHER: This is Dineen
9 Majcher on behalf of Rhythms. I really just
10 have a couple of questions just to clarify the
11 record.

12 CROSS-EXAMINATION

13 BY MS. MAJCHER:

14 Q Is SBC Advanced Solutions, Inc., the
15 company with whom Southwestern Bell currently
16 allows line sharing?

17 A (Sirles) This is Glen Sirles for
18 Southwestern Bell. I believe that is correct.

19 Q And under what terms and conditions is
20 that provided? Is that pursuant to an interim
21 agreement or an order or a tariff or what?

22 A (Sirles) I'm not sure I can answer
23 that.

24 JUDGE FARROBA: Is there someone
25 who can?